

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

**DOCKET NO. 3:07-CV-263-FDW**

**In re:**

**JOHN E. DYER and  
KATHLEEN C. DYER**

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**JOHN E. DYER and KATHLEEN C.  
DYER,**

**Appellants,**

**vs.**

**LARRY MICHAEL STILES, United  
States Trustee, et al.,**

**Appellees.**

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**ORDER**

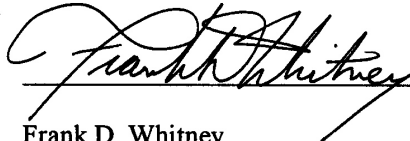
THIS MATTER is before the Court on Debtors/Appellants' "Motion for Stay of Judgment of District Court Pending Appeal" (Doc. No. 4). On 20 July 2007, the undersigned affirmed the order and final judgment of the bankruptcy court dismissing the Debtors' bankruptcy petition for failure to obtain a credit briefing in a timely manner as required by 11 U.S.C. § 109(h).

The defect for which the dismissal was ordered is easily cured by refiling the bankruptcy petition within the statutory time limit. Prompt refiling would also have the salutary effect of allowing the administration of estate assets to go forward, to the benefit of the creditors, while also allowing the case to proceed toward discharge, to the benefit of the debtors. By contrast, an appeal would be time consuming and costly and only unnecessarily delay the administration of the bankruptcy estate.

Appellants may pursue their appeal as is their right, but they should not be afforded the continued protections of the bankruptcy laws if and while they do so, especially when Congress has so clearly spoken to the point that each of the Appellants “**may not be a debtor** under this title” due to their admitted failure to obtain a credit briefing “during the 180-day period preceding the date of filing.” 11 U.S.C. § 109(h)(1). Accordingly, Appellants’ motion is DENIED.

IT IS SO ORDERED.

Signed: August 22, 2007

  
Frank D. Whitney  
United States District Judge

